

COMMITTEE ON BILLS ON SECOND READING

January 29, 2001

Chairman Wihby called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Sysyn, Clancy, Pinard, Cashin

Messrs: R. MacKenzie, D. Boutin, P. Goucher, L. LaFreniere, N. Lazos,
R. Fradette

Chairman Wihby addressed Item 4 of the agenda:

Communication from Mayor Baines requesting the Welfare Commissioner position be changed from an elected position to an appointed department head position under the provisions of RSA 48:18 through 48:21 (copy enclosed).

On motion of Alderman Cashin, duly seconded by Alderman Clancy, it was voted to receive and file this item.

Chairman Wihby addressed Item 5 of the agenda:

Communication from the Contributory Retirement System submitting a revision of Chapter 218, the Systems Plan Document.

On motion of Alderman Pinard, duly seconded by Alderman Sysyn, it was voted to receive and file this item.

Chairman Wihby stated we are not going to be taking up Item 9, which is Gold Street. Alderman Pariseau has asked that we keep that on the table because he wants to look into that some more.

Chairman Wihby addressed Item 3 of the agenda:

Ordinance Amendments:

"Amending Section 33.025 (Airport Director) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.025 and 33.026 (Manager, Airport Operations and Facilities) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.025 and 33.026 (Welfare Supervisor) of the Code of Ordinances of the City of Manchester."

On motion of Alderman Pinard, duly seconded by Alderman Cashin, it was voted that these ordinance amendments ought to pass.

Chairman Wihby addressed Item 6 of the agenda:

Proposed Zoning Ordinance Amendment:

"Amending the Zoning Ordinance of the City of Manchester by Comprehensively Revising the Zoning Ordinance Including Changes to the Text, Tables, and Maps."

- a) Summary of Potential Zoning Changes before the Committee submitted by the Director of Planning;
- b) communications relative to proposed changes to the Zoning Ordinance as follows:
 - 1) Bill Larkins;
 - 2) Attorney Nicholas Lazos regarding clarification - Multi-family Dwelling Units for the Elderly;
 - 3) Attorney Nicholas Lazos - lot line relocation - Donovan Spring property off South Willow Street;
 - 4) One Bay Street Associates;
 - 5) PD Associates, LLC
 - 6) Carol Sampson requesting consideration of a zoning change to R-2 in the area of Manning Street between South Taylor and South Cypress Streets as part of the change; and
 - 7) Wenger & Cronin, P.C.

Deputy Clerk Johnson noted for the record that three communications were distributed to the Committee. One from Mr. Girard, and two from Attorney Fradette.

Chairman Wihby stated what I am hoping to do just so the Committee knows is to pass something tonight and bring it to the full Board next week and if we can all agree to suspend the rules next week we can put it on its final reading and pass it. I know it is causing a lot of grief in the Building Department as far as people coming in looking to do things and it is about time that we just move forward with it.

Mr. MacKenzie stated because it is a fairly complex process and I do have to say the zoning ordinance is perhaps the community's most complex of ordinances; some of the most difficult so I apologize because there are a lot of changes here. The Building Department has actually had some experience already with the new ordinance because of this Catch-22 where they have to enforce both the existing and the proposed, they have found some glitches and we are trying to correct those. If I could just talk about the general categories of changes, in your package you will see a page that starts with Summary of Potential Zoning Changes Before the B2R Committee. If you can find that package, the first chunk, which is a-n were changes that were brought to the Board at the public hearing. Those were items that before the hearing the staff found were glitches. Some of those the Board was familiar with. We did review those at the hearing and we do believe that those are appropriate to be considered by the Board. If you have any questions...I am not going to go into any detail on those particular ones because we did review that before. There are issues with extended stay facilities. There was a problem with three story versus two and a half story that a number of property owners commented on. We have corrected that. I was not going to review those in detail. The next section came out of comments at the public hearing and they are listed in the next chunk, numbers 1-14. There were actually 15 items that I think the Chairman had indicated that we should resolve. I think the 15th was already resolved so we didn't include it here. I may want to briefly, if the Committee would allow me to review quickly each one of those.

Chairman Wihby stated you don't have to do number one because that is going to be put on its own.

Mr. MacKenzie asked would you like me to briefly go down and explain each of these. On number 2, there was a request by certain property owners to rezone a section on South Willow Street where Seames, Laxson and Doris Streets come down and join South Willow. This applicant has gone before the Zoning Board of Adjustment and been denied for some commercial. This particular area, the staff did not include in commercial. This was the only area that the staff did not include because these particular lots front on the residential streets and the staff has been concerned about the potential impact if you have curb cuts there could be tremendous impact of traffic on the residential streets. That is why the staff did not originally include it. We do recognize that there are certain pressures to put

these commercial and from the perspective of those lots, they might be appropriate commercial, but the Board has to balance the appropriate use of those individual lots with the impact on the many residential lots down those residential streets. We did look at two options and what we would probably recommend is that those lots on South Willow Street be zoned with an overlay zone, which is a professional overlay, a PO overlay. That is our option one shown under Item 2. Having an overlay would allow them some commercial use. They would be able to put smaller offices within those buildings. However, generally offices are not open on weekends or late in the evening so the impact on the residential neighborhood whereas there might be some impact, would be much less than if it was a 24-hour convenience store. That is what we are suggesting on Item 2. Did you want to ask me questions on each one or do you want me to just run through them?

Chairman Wihby stated go through them all, but give us your recommendation on each one.

Mr. MacKenzie stated the Brown Avenue rezoning on the east side area of Brown Avenue, in this particular case the west side is intended to be purchased by the Airport so the east side did request that this area be rezoned commercial. This actually came before the Board before and there was also a significant petition against the commercial rezoning. Our general feeling is that Brown Avenue is the only access currently and for several years to our Airport. We have to be very careful. If you zone to significant strip commercial, you are creating problems not only for the residential abutters nearby, but problems to get in and out of the Airport, which is critical to our economic base. On the other hand, this particular area might be suitable for one large commercial user and I use the example of a hotel. If all of those property owners got together and said let's develop this as one hotel that kind of relates to the Airport and we are only going to have one curb cut, that might be an appropriate use. We are suggesting that while it may be suitable for selected commercial, that we are referring that to a lookback provision. The Board discussed this lookback provision. We would come back to the Board not later than a year from now. There is also potential that if a perspective developer comes in with one proposal, the Board could look at that earlier than one year and we would be happy to comment at that time. So, on Item 3 we are referring that to the lookback provision. On Item 4, Manchester Volkswagen, that has been recently purchased. There was a piece that was part of the Public Service Company rezoning request that has now been purchased by Manchester Volkswagen. We believe that the Volkswagen facility should be a B-2 to allow continued use of their property. We had earlier recommended that the other car dealerships on Gold Street also go to B-2 because under the proposed ordinance that is the appropriate zone for auto dealerships. We think that this particular site should also be rezoned B-2.

Chairman Wihby stated so on the first proposal, the first part was done. Is that what you are saying?

Mr. MacKenzie replied Manchester Volkswagen now owns two pieces of property. One where the existing building is and one right behind it that used to be owned by Public Service Company. Both of the parcels right now are industrial. Under the new proposed zoning, that will not allow auto dealerships. So, we believe that potentially both parcels should be B-2. This is a known entity, Manchester Volkswagen. Even though they are going into a portion of what was Public Service Company land, it is a known entity with a known traffic impact on the area so we feel that is appropriate to make those both B-2. On Item 5, there were several concerns discussed by Countryside Village. One we have already handled that I discussed before – the height issue for multi-family has been corrected in an earlier item. The number three portion of Item 5, making their entire site an R-SM Suburban Multi-Family, we concur with. They were also looking for a small commercial zone on Hackett Hill within their develop to serve their project. That one, while the staff is generally supportive of that, we thought that we needed just a little bit more time to review that and make sure that it matched with the land development and would suspect that that piece go to the lookback provision, although generally we are saying that we suspect we will support that later once we have reviewed it all.

Alderman Cashin stated I want to go on record as abstaining to Item 5.

Mr. MacKenzie stated on Item 6, this is a two part question. First, the height has been resolved. The second portion is indicating that a CU is required for multi-family in the R-SM district. We would suggest that that be corrected to allow that multi-families be permitted by right rather than by conditional use permit in the R-SM district. We are supporting that request on Item 6. On Item 7, there was a request within a single-family zone to convert a block or two to two-family. I did go down and look at the neighborhood. It is mostly one family homes. There is only one individual looking for the change. I would be hesitant without having some neighborhood meetings and reviewing the area in detail to recommend that a large neighborhood be converted to R-2. R-2 does increase traffic and increase the number of students, etc. We are suggesting that that be referred to the lookback provision so the neighborhood can give some response. I don't believe the neighborhood was aware of this request. On Item 8, there was discussion about medical offices in the professional office district. We did concur with that. They should be allowed and this was corrected in that earlier batch, the a-n.

Chairman Wihby stated so Item 8 is nothing.

Mr. MacKenzie replied right. That could be a receive and file. Also, Item 9, similarly there was a question about that but the area is already proposed for B-2 so that is a mute issue. On Item 10, again there was a discussion of land between Schiller and Harvell Streets. We, as staff, concurred that that was more suitable as B-2 rather than residential. There were no residential properties in that particular strip and we concurred with that change. In essence, that is another issue that is mute because that was included in the a-n. Item 11, there was a request to review the properties on Bridge Street between Maple and Russell and you are probably familiar with those. It is the former Christy's Market, Trombly Plumbing, gas station. There is a pizza place there also. We felt that it was appropriate for B-1. It is a relatively solid neighborhood. It has been stable for a number of years. Every time they have to change something on their properties, they have to come in for a variance whether it is a slight change in their sign so we did concur and recommend that that become a small neighborhood business district. Item 12, revisions to sign ordinances. We had included, I believe, most of the changes that were requested in the ordinance. There may be one or two smaller ones. We hit the key topics that they were concerned with. If there are some others, I believe they are minor and we can catch those in the lookback provision. I believe everything is set with the signs. Item 13, extending the proposed area and allowing elderly high rise residential up to Black Brook on the west side, we did concur with that. There is already an elderly project at the Meetinghouse on Riverfront and we would make sure that that would not become non-conforming by this change. I would note that one of the items we didn't look at was also extending the provision for the, and it is a technical term, floor area ratio. That is how much building you can actually put on a piece of property. If you are allowing mid-rise buildings, you should also allow the floor area ratio to accommodate that. I may request the Board's indulgence, if the Board approves this section I would also suggest a minor change in the floor area ratio.

Chairman Wihby asked do you want to do that with this.

Mr. MacKenzie answered I think it is appropriate if we are allowing mid-rise in that particular location that we should also allow the appropriate floor area ratio.

Chairman Wihby asked so that is not part of your recommendation or not.

Mr. MacKenzie answered I would suggest that if the Committee wouldn't mind we could modify that.

Chairman Wihby asked modify it to say what.

Mr. MacKenzie answered what I would like to be able to do is discuss with my staff and the Building Commissioner what the correct number should be and if you could allow us a little discretion we could take a couple of days and get you the right numbers. Right now, it is .75.

Chairman Wihby asked we could pass this and you could bring that up to the full Board meeting.

Mr. MacKenzie answered I would prefer to do it that way so we have a little bit of time to review it with the Building Commissioner. On Item 14, it is a revision to the Airport overlay districts and there are a number of issues here. There are some major changes that the Airport wanted. Some of those would have a financial impact on several neighborhoods because developers would be required to provide additional soundproofing in much larger areas than the current proposed ordinance would allow. I believe we need a little bit more time to fine-tune that and would request that that go to the lookback provision because we have not had time to go through all of the recommended changes. Most of them are appropriate, but some have some fairly significant impacts and we believe we need just a little bit more time.

Chairman Wihby asked do you want us to vote on these 14. Is that going to be easier? What are these next nine items? Are they the same as the 14?

Mr. MacKenzie answered no. The next ones have come up since the public hearing.

Chairman Wihby asked so it is still stuff that we are going to vote up or down.

Mr. MacKenzie answered yes.

Chairman Wihby stated you can proceed.

Mr. MacKenzie stated on Item 1, this is one where there was a request to rezone a specific house on South Lincoln Street to commercial. We have been looking at that. Again, if it was not brought up at the hearing in most cases we are going to suggest that it go to the lookback provision as a group. This is in a residential block. Even though the properties across the street near South Willow are commercial, almost all of the other properties around it are residential so I would be hesitant to recommend any changes until I had a further look. So, Item 1 would refer to the lookback provision. Item 2 is up in the neighborhood adjacent to Webster Street. This dealt with a specific lot on Walnut Street. If you are familiar with Hoppagrass, currently there is a house located behind it. In the proposed ordinance, that house behind was also going to be converted to commercial.

However, that would make the house non-conforming so we are suggesting that we draw the line, we tweak the line right there so that the house remains residential, R-1B and the line for commercial be drawn right behind Cumberland Farms and Hoppagrass. We are recommending that change. Item 3. There has been a current building permit problem with a property on Second Street in that the current zoning line goes right through the middle of a commercial property. This is the Mallard Pond property. On that one, in order to avoid some current issues dealing with tenants who want to move in there with an office use and the line goes right through the building, we are suggesting that the whole building be included in the B-2, but not extended to the entire property. If you know the property, the rear portion of the property is what used to be the Pyramid. That extends out into the wetland area. We are hesitant to include that right now. There are separate issues dealing with that building, but we are suggesting that at least the building where the zoning line goes through be included as B-2.

Alderman Cashin asked so what you are saying is that the shopping center would be B-2, but the Pyramid building itself would not be.

Mr. MacKenzie answered that is correct. On Item 4, we did get some concerns by a mortgage company as to a restoration clause of the ordinance, but they were looking at the old ordinance. I believe we have satisfied those issues in the proposed ordinance. Item 5 was a request dealing with Massabesic and Valley Streets and hoping that that be converted to commercial. Again, that is a relatively large area that they are looking to go commercial near Massabesic and Valley, not too far from Billy's Sports Bar. We think it is appropriate to send that back to the lookback provision. Item 6 was a request to modify the existing I-3 and B-3 line that cuts through Donovan Properties. There is probably some merit here. There is a potential development looking at that area. We have not had time to pin that down and that was not discussed at the hearing. We don't have a specific recommendation on that. It would be included in the lookback, but I suspect it will be coming to the Board more quickly than that.

Chairman Wihby asked so what is the recommendation on Item 6. Have them file a petition?

Mr. MacKenzie answered we do not have...I mean I have not had a chance to look at the site myself so we just did not come up with a recommendation at this point. There are some issues that we would like to look at, but we do not have a recommendation. We could try to have one for the full Board but we do not have one at the present time. On Item 7, this is an area that is requesting commercial on Candia Road in the area of the candle shop, Golden Rod and Hazelton Equipment. That area has been under pressure from development from a number of areas and the neighborhood has expressed serious concern about a lot of issues in that area.

It was not brought up at the hearing and we feel that it should go to a hearing so that the neighborhood has proper input. The request may not be inappropriate, but we feel that it should be included in the lookback provision. Item 8 were some issues that were brought up by Felix Torres of Neighborhood Housing Services. We generally...some of those issues we think have been resolved. They were concerned about a lot of parking lots springing up in the middle of their residential neighborhood. There is a provision in the proposed ordinance that limits surface parking lots within 1,000 feet of the civic center. We think that will help protect the neighborhood. That particular portion of their concern is resolved. There are several other requests they have made and we had hoped to review that and get recommendations for tonight, but we have not been able to.

Chairman Wihby asked so Item 8 is a lookback.

Mr. MacKenzie answered Item 8 is a lookback and Item 9 is a lookback. That was a request by Mr. Larkin to do some extensive revisions in creating a new "Traditional Neighborhood Commercial Center Overlay District." Generally, the staff is support of that, however, there are tremendous implications for a lot of properties in the City and we have to do that correctly. That is going to take a couple of months to do so we are suggesting that it go back to the lookback provision.

Mr. Boutin stated Item 7 has to do with Candia Road. We are, as I understand it now, the Planning Department is going to be asking for some funds in the CIP budget to do a corridor analysis of Candia Road. It has become evident to most of us that there is an increasing amount of pressure to develop that road so I just wanted to bring that to the attention of the Board. That is another reason why we should do the lookback.

Chairman Wihby stated, Bob, you can continue with Item a. Now these are things that have been going on for the last two and a half months that you found...I don't know if we have to go through all of those.

Mr. MacKenzie replied the a-j are items that we found as technical issues as the Building Department has worked with the ordinance. A lot of these will correct little glitches that we have seen throughout. It also includes the lookback provision. I can't say that any of these are substantive issues. I would be happy to review these or the staff would be happy to review them.

Chairman Wihby asked what do you mean it also includes the lookback.

Mr. MacKenzie answered just the idea of the lookback, which we support.

Chairman Wihby asked is that the whole thing now that we have in front of us.

Mr. MacKenzie answered that is the package as we know it. We do get requests every single day. There are a lot of issues out there in terms of development in the City. Again, I think we do have to come back in 12 months, but we believe the proposed ordinance has to be adopted. There is a lot at stake with a lot of major developments that are kind of hinged upon whether or not this ordinance passes.

Chairman Wihby asked, Leon, do you have anything to add.

Mr. LaFreniere answered no. I am just available for any questions you may have.

Alderman Shea stated as far as the Master Plan is concerned, we are really putting the zoning changes first and the Master Plan second rather than putting the Master Plan first and the zoning ordinances to fit the Master Plan. In terms of Item 2 to rezone the residential lots on South Willow in the vicinity of Seames, Laxson and Doris Streets, I lived in that area for 25 years. I have since moved slightly north but in considering whether we adopt a change in terms of what Mr. Fradette and his client want we have to consider the stability and well-being of the neighborhood. I really would be a little bit remiss if I didn't mention to you that the people in that particular area probably are not aware of the fact that there is a change or will be a possible change. I really think that it is going to dramatically change that area. If one were to put two buildings there, I noticed already there is a problem with the amount of space that is on Laxson Avenue and I am sure that we are well aware of the fact that with any site change there is certainly going to be traffic generated on Laxson Avenue either exiting or coming onto that area through Laxson Avenue and that is a narrow street. I would have reservations concerning that. I would give serious thought to that. The second point that I want to mention and this goes to the request for a possible additional supermarket and I am not sure where that is. I have sort of lost my place here but I think it might be Item 6 and I think that the sooner we can get another supermarket into the City, the better. Of all the items that people tend to hit me up about whether I am at one of the local supermarkets in or out of town is the fact that there are limited choices for people. That would be something that should be done as soon as possible in my judgement.

Chairman Wihby asked as far as Item 6 goes is that just a matter of since the line is already through the property just moving it to the end of the property or are they looking to do something other than that.

Mr. MacKenzie answered it runs very close to or through the existing Donovan Spring building and they are hoping to move that line southerly so that it includes the whole property that is owned currently by Donovan Spring so they have a full

area that they could develop commercially. It is adjusting a line from the middle of a property out to the edge of the property.

Chairman Wihby asked are there any other proposals like that in here where someone owns a property and it goes in the middle of another property and we are telling them no.

Mr. MacKenzie answered Second Street is one and we are correcting that portion of that and the Countryside Village is one and we are suggesting that that be corrected.

Chairman Wihby stated so we are doing one on purpose probably and this one we just haven't seen it yet. We haven't had time to look at?

Mr. MacKenzie replied yes. I think our staff's only concern is the traffic impact and how that can be handled. We do recognize the issues of supermarkets, certainly, but we have to consider some of the neighborhoods that have been hammered around the South Willow Street area. We think that this is likely doable. I just haven't gotten down there to look at the site and know exactly where it is.

Alderman Clancy stated speaking about this rezoning on South Willow Street will that include the rental truck business there. I concur with Alderman Shea that it would be a good idea to have a supermarket down there providing that we have the correct curb cuts.

Chairman Wihby asked, Bob, is there any way that if we took your recommendation in not moving forward today that you could bring that back...I think that the intention of the Board is going to be to have another supermarket in Manchester so is there a chance for you guys to work that out and come back to the Board about moving the line over.

Mr. MacKenzie answered if the Committee would like...

Chairman Wihby interjected could we move it subject to your approval.

Mr. MacKenzie replied you could move it tonight and include it in the package. We would bring back any substantive problems we had with the zoning part. I am concerned with traffic, but we are going to have to work with that in terms of the site plan reviews.

Chairman Wihby asked tell me a little bit about that. We okay this today and if we wanted money to widen South Willow Street or whatever that is still a possibility from your end or is that part of a negotiation and we ask to rezone it?

Mr. MacKenzie answered that has become more difficult for the Planning Board to do because of the major court case in New Hampshire, which talks about Planning Boards having difficulty requiring traffic impact fees where they don't have a blanket traffic impact fee ordinance in the City. To some extent it would be better to try and negotiate that at the Board of Mayor and Aldermen level and at the rezoning level because of the court case.

Alderman Pinard asked do you have a timetable for the supermarket.

Mr. Lazos answered we will be ready to make a presentation to the City within a month or sooner. That is why the proposal is coming up now. It is in the process. We also asked to come to the Aldermanic Board to discuss the discontinuance of front portions of some streets and also providing access across railroad bed. There are going to be a lot of opportunities for the Board of Mayor and Aldermen to discuss this.

Mr. MacKenzie stated I will take that under advisement. Again, the Committee may want to move it and get it into the process and we will review as staff as to how we could properly negotiate. I understand that there may be other catches that the Board has, two other actions that the Board may have to do that it might be appropriate to discuss traffic impact fees then.

Chairman Wihby asked what else did you have. Anymore questions from the Board?

Alderman Sysyn stated I have a question on Item 2, rezoning the residential lot. That is the only place that will be residential on South Willow Street.

Alderman Clancy replied there is a house there right across from the rental place. They are always complaining about the fumes going across the street.

Mr. MacKenzie stated it is the only section that would be left residential in the South Willow Street area. The sides of the property do front on South Willow. Typically, the front of the lots, however, have been on those side streets. The Laxson, the Seames, the Doris and that is why we have had a struggle because we recommended that most of the other residential properties on South Willow go to commercial but we struggle because we want to be careful not to encourage additional commercial traffic down those streets and if we put the curb cuts on the main frontage, the larger frontage, you are encouraging traffic onto those streets.

That is why we thought we would at least look at a compromise with the professional overlay.

Ms. Goucher stated just to clarify something on the Seames, Laxson, and Doris Streets proposal, Alderman Shea was talking about Atty. Fradette and his client looking for the professional overlay. That was one of our recommended options but I just wanted to clarify that I did meet with Atty. Fradette and his client and it is not particularly the option that they would like. They would rather see it be the retail that the rest of the area is. Atty. Fradette did represent to me today that his client has also purchased another lot that extends back on Seames and they are willing to provide, at least on the property that they have under their control, some kind of buffer but that doesn't answer to the rest of the neighborhood if the Board determines that they want to rezone that. I did want to make it clear that the professional overlay that we were suggesting as an option is not the option that Atty. Fradette or his client would prefer. They would prefer to see it retail and they would like to be able to offer something buffering on that particular lot, but that doesn't speak to the other lots that are adjacent.

Chairman Wihby asked wasn't this a compromise. What was it before that you recommended? Keeping it residential?

Mr. MacKenzie answered yes.

Chairman Wihby stated there are a couple of different views here. Alderman Shea is saying leave it residential and Alderman Sysyn is saying let's go all the way. I don't know where it ends up but the recommendation is...I just want to recap. Let me get a motion first on the floor and then if someone wants to change something from that they can try to change it. A-N are no problems. Item 1 is going to be tabled because we are going to take that up as its own issue and it is not going to be part of this package. On Item 2, the recommendation of Planning is the professional overlay, R-1B. On Item 3, the recommendation is a lookback. On Item 4, the recommendation is B-2. On Item 5, the recommendation is the lookback on option 2. On Item 6, the recommendation is to change it and allow the CU. On Item 7, the recommendation is a lookback. Items 8, 9, 10 and 12 will be received and filed. On Item 11, the recommendation is that it go from R-2 to B-1. On Item 13, the recommendation is to extend the proposed area allowing elderly high rise residential up to Black Brook on the West Side plus a change to the floor area ratio.

Deputy Clerk Johnson suggested that the same language be utilized throughout and just allow him to make the change in the ordinance when we make a motion to amend it subject to what Planning and Building recommends. We can always change it at the Board level.

Chairman Wihby stated Item 14 is recommending a lookback. Item 1 on Page 4 is recommending a lookback. Item 2 is to go with the recommendation. Item 3 is to change the zone line and have a lookback review. Item 4 is receive and file. Item 5 is a lookback. Item 6, their recommendation is not to do anything so we want to think about whether we want to change that. Items 7, 8 and 9 are lookbacks. A-J is stuff that Planning is recommending. Can I have a motion?

Deputy Clerk Johnson asked can we also have Item 6 reflect approval subject to the approval of the Director of Planning prior to adoption. I just want to clarify whether that is what you are doing or not because that is what the Planning Director had agreed to.

Alderman Pinard moved to accept the recommendations for changes to the zoning ordinance from the Planning Department. Alderman Clancy duly seconded the motion.

Chairman Wihby stated it seems to be that there are two issues.

Alderman Sysyn asked can we make Item 2 a lookback.

Chairman Wihby answered yes but there are two issues that we can talk about further. One is going to be Item 2, which is South Willow and Seames Drive. The other is Item 6 and whether we want to recommend to go ahead and do that. Let's take Item 2 first. Does anybody want to move to change that and allow them to be B-2 instead of the recommendation from Planning?

Alderman Sysyn stated I want to have it as a lookback.

Chairman Wihby asked do you want to make the whole thing a lookback or do you want to change it to the R-1B and have it a lookback.

Alderman Clancy stated I will do what the staff recommends on that one.

Chairman Wihby replied the staff recommends the R-1B. Everything, actually is a lookback. They can bring it back next week if they want to this Committee and start rezoning the whole City over again.

Alderman Shea stated as far as I am concerned, I am not for B-2 in that section. No way.

Chairman Wihby stated right now the motion is for R-1B. There is no section to the motion to make it a lookback. How about Item 6, which is basically the

Shaw's Supermarket. Do we want to amend that and let him come back at the next meeting with the lot line or do we want to leave it and have it a lookback?

Mr. Boutin stated I just want to echo what Mr. MacKenzie said. I, as many of you are, am in favor of another supermarket coming into the City. The one issue that we need to keep in the forefront here is as Mr. MacKenzie said the Supreme Court just recently ruled and changed the whole landscape on how we impose impact fees. We have on our books now an impact fee for houses so when someone does a subdivision it is there and based on the number of bedrooms and so forth. When we have a site plan that comes in and they do minor changes and maybe they paint an extra line in the street for a turning lane or something like that, that is no big deal but the numbers that I have been hearing with respect to a roadway out there which would make that project feasible as well as any potential project on the PSNH land is somewhere in the order of \$700,000. Right now, based on and that is just half of it. That is just half and I am talking about Item 6. Right now, the Planning Board would be hardpressed to require the applicant to agree to that stipulation. That is the only issue. The person representing the party has indicated that there will be two or three other opportunities before your Board has to deal with closing streets and so forth. If you feel comfortable that you can deal with that issue at that time then move forward and adopt it. If you don't, you may want to wait.

Chairman Wihby stated I guess there are two ways to go with this. One is we don't do anything today and let them negotiate in the next week or two is to change what we have on the table and amend that to say that we are going to allow them to do it and we still could change it in another week. Either way, if they negotiate something in the next week and there are any problems, we could vote it up or down or take it out then.

Mr. Boutin replied and that negotiation has to be between them and you. Not the Planning Board because we don't have that jurisdiction.

Chairman Wihby asked Mr. Lazos why would you come back to us if we did this change. We are not going to meet again before the Board meeting.

Mr. Lazos answered I am not quite sure how we would develop the process anyway because the scope of the project and traffic studies haven't been done at all. As I mentioned before, there are proposals to discontinue portions of some of the streets in there and also to discuss crossing the railroad easement that is behind us. Just to clarify, we don't need the railroad easement to do this project. The goal here is to do a traffic study and make sure that the project conforms with the requirements on South Willow Street. So, you are going to have at least one other shot at us as it were to negotiate so-called impact fees.

Chairman Wihby asked when is that, when we go to close the road.

Mr. Lazos answered yes and that will be part of the site plan process. We will be doing that concurrently with the site planning process.

Chairman Wihby asked so is there any big deal if we don't take this up tonight and let it come forward on its own. Where are you with this?

Mr. Lazos answered we are very close to finalizing it and actually going in with a conceptual plan to the Planning Department. You should know that Mr. MacKenzie and Mr. Harlacher have already seen a prior conceptual plan for this and it has been moving along rather slowly because of issues relating to acquisition of the properties. To get back to this particular request, you should know that the uses that are proposed or allowed in both the I-3, Industrial Zone and the B-2 zone, the issues that we have relate to setbacks and other problems that are causing some design difficulties for us. That is why we would like the entire property to be zoned the same rather than have it split by an industrial and a business zone. We didn't think that this request was a significant issue. The issue is whether you have any leverage over us to negotiate something later and the answer is you do.

Chairman Wihby asked how, just because if we don't discontinue a road you don't build it.

Mr. Lazos answered that is right.

Alderman Gatsas asked what happens if the developer decides that they aren't going to build a supermarket.

Mr. Lazos answered the property is currently used by Donovan Spring right now and they actually have a building on it. All it does is it makes the Donovan Spring property consistently zoned. It doesn't have any special significant one way or the other other than to make the Donovan Spring property one solid zone instead of being split in half.

Alderman Gatsas asked so the impact fees that we were talking about and that were alluded to, if you were to come back to this Board and for some reason you weren't going to do a development with Shaws there would be no reason to come back to this Board and there would be no so-called impact fee.

Mr. Lazos answered that is right.

Alderman Gatsas stated if for some reason they do not build a grocery store there or a supermarket, there would be no effect for them to come back and talk about impact fees because the zoning would be in place and they may not need to close roads or make any changes.

Chairman Wihby replied right but they could do something else within the limits of what the property is.

Alderman Gatsas stated I think maybe your original thought process on that was to talk to them prior to the zoning change.

Chairman Wihby replied I am hearing Atty. Lazos say that they aren't going to be able to talk because they don't have any of the numbers or anything.

Mr. Lazos responded it really depends on what kind of agreement you want. It is a little bit premature to even be talking about...I am not even sure what everyone is talking about anyway. If you are talking about making sure that the entrance to the project is properly signaled and has proper access and proper lanes, then that is quite an appropriate discussion. I don't see any reason why that discussion couldn't be done with the staff or if this Committee wants to have a meeting before the next Board meeting I will try to get my clients here to have the discussion, but it really is a little bit premature to be discussing the scope of impact fees before the Planning Department has even looked at the plan.

Alderman Gatsas asked, Chairman Wihby, is it appropriate for your committee to table this item.

Chairman Wihby stated if we table this item, it wouldn't be in the whole thing. They would have to come back and petition the Board later.

Mr. MacKenzie replied I believe that since it was not separately heard, it will have to come back to a hearing if you do not include it in the overall package.

Chairman Wihby stated the ideal situation would be to pass it today because I think there is a consensus of the Board that it is a good thing to have there and have some sort of negotiations between now and the full Board meeting to come up with a solution to the concerns of the Planning Department. I don't know what they are either but to ask him to come and talk to us doesn't make sense.

Mr. Boutin replied the other thing is that you don't know that this is the project that you are ultimately going to be dealing with. If for some reason Shaws walks away and you approve the zoning and then you don't have anything, certainly the Board will have no leverage. We will have no sense of what we can do there. I

don't want to stop the project. Most of you know where I come from on those kinds of issues. I think it is a great project, but I think that certain steps need to be taken beforehand. If it were me, I would recommend that it be taken up as a separate hearing.

Chairman Wihby asked, Mr. MacKenzie, what is your recommendation.

Mr. MacKenzie answered I would suggest that if there is concern we could have discussions with the applicant in the next couple of weeks and find a solution and perhaps then this Committee could meet briefly the night of the full Board meeting to pass along a recommendation. I am not sure if we will be able to resolve anything, but if it was possible, that would be one option.

Alderman Clancy asked when is the next Board meeting.

Deputy Clerk Johnson answered February 6.

Alderman Gatsas asked is there a map.

Mr. MacKenzie answered we have a sketch map that I can show to the Committee.

Chairman Wihby stated we have a motion on the floor. Are there any amendments that anyone wants to make to that? Item 2 is R-1B and Item 6 is no recommendation.

Mr. MacKenzie replied can I just clarify. On Item 2, you mean R-1B with a professional overlay, which was the compromise.

Chairman Wihby responded right.

Alderman Sysyn asked can we do a lookback on Item 2.

Mr. MacKenzie answered the Committee could recommend that we go with a compromise with putting the B-2 as a lookback provision. You could do that.

Chairman Wihby stated on Item 6 do I have a motion to do anything other than no recommendation and having them come forward on their own. That is what the motion is already.

Deputy Clerk Johnson stated so we are taking the approval subject to the Director out.

Chairman Wihby responded right. It won't come forward at the next meeting. They are going to have to come forward and file their own petition.

Alderman Cashin asked, Bob, didn't you say you could work this out and come back...if we approve this subject to your meeting with whoever you have to meet with and coming back to the full Board didn't you say you could work that out.

Mr. MacKenzie answered the Board could amend, as long as this is carried as an item, the Board could amend it that night to include it. I can't guarantee you that I would come up with any compromise or reach a solution. We could always try.

Alderman Cashin replied well if you don't come up with a compromise then we can just leave it on the table. So, what is the motion?

Chairman Wihby stated then we want to amend what we have on the table to pass Item 6 and have the Planning Director come back to the Board meeting with a lot line.

Mr. MacKenzie replied again I would suggest maybe just tabling Item 6 so it is still on the agenda.

Deputy Clerk Johnson stated I have a suggestion. I think if you allow the recommendations to go forward as the motion is presently we can also place on the Committee's report that the Planning Director will come forward with an additional recommendation with regards to Item 6 and that report can be submitted to the Board that evening. They are going to have to amend the ordinance at the Board level for that, but it can be done at the Board level because we would then have the language if there is a workout agreement that is done prior to the meeting.

Chairman Wihby asked is that what you want, Alderman Cashin.

Alderman Cashin answered as long as we expedite it.

Deputy Clerk Johnson stated that would leave the option open for the Board to amend the ordinance and place that in there that evening.

Chairman Wihby asked do we need a motion for that.

Deputy Clerk Johnson answered why don't we take the motion that is on the floor first and then I am going to give you a couple of follow-up motions.

Chairman Wihby stated the motion on the floor is to accept the recommendations for changes to the zoning ordinance from the Planning Department. Do we want to change Item 2 or not?

Alderman Sysyn moved to have Item 2 as a lookback. Alderman Pinard duly seconded the motion. Chairman Wihby called for a vote. There being none opposed, the motion carried.

Deputy Clerk asked can we do two separate motions and that will resolve a lot of it and keep it nice and clear for everyone. On Item 6 there has been an indication that the Committee is requesting that the Planning Director make a report to the Board advising of perhaps a proposed amendment to the zoning ordinance that evening, on February 6 when it is presented. Can we get a motion to that effect?

On motion of Alderman Cashin, duly seconded by Alderman Clancy, it was voted to request that the Planning Director make a report to the Board on February 6, 2001 on Item 6 advising of perhaps a proposed amendment to the zoning ordinance.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted that the ordinance ought to pass with amendments as outlined in the recommendations by the Planning Director.

Deputy Clerk Johnson stated the report going to the Board would be that the ordinance ought to pass with amendments as outlined by the Planning Director so when the zoning ordinance is presented it is presented with all of these amendments in it other than Item 6. Item 6 will be submitted separately. It is my understanding that you want to suspend the rules and place this ordinance on its final reading that evening.

On motion of Alderman Clancy, duly seconded by Alderman Pinard, it was voted to recommend to suspend the rules and place the Ordinance on its third and final reading at the Board meeting on February 6, 2001.

Chairman Wihby addressed Item 7 of the agenda:

Communication from the Director of Planning submitting a draft ordinance amendment dealing with notice of and fees for amendments to the Zoning Ordinance.

Deputy Clerk Johnson stated the Clerk did submit a letter with regards to this issue.

Chairman Wihby asked what are we looking for.

Deputy Clerk Johnson answered basically we would like the ordinance to clearly reflect that the petitioners should submit the abutters listing at the time of submission with an update when hearings are scheduled a substantial length of time following the original petition. In other words, if it is a six month process we want to make sure that we get an updated list at their expense, not at the City's expense.

On motion of Alderman Clancy, duly seconded by Alderman Sysyn, it was voted to amend the ordinance to reflect that petitioners should submit an abutters listing at the time of submission of proposed amendment with an update when hearings are scheduled a substantial length of time following the original petition as may be determined by the Committee or the City Clerk.

Deputy Clerk Johnson stated in addition to that amendment, we had also outlined some information that Alderman Shea, I believe, had made with regards to establishing a fee for the application and putting in other conditions. I didn't know if the Committee wanted to deal with that or refer that to the Committee on Accounts, Enrollment & Revenue Administration. It was an issue and it has been so long that I did include the information in the package.

On motion of Alderman Cashin, duly seconded by Alderman Sysyn, it was voted to refer the establishment of a fee for zoning amendment applications and other informational conditions of application to the Committee on Accounts, Enrollment & Revenue Administration.

On motion of Alderman Clancy, duly seconded by Alderman Cashin, it was voted that the remainder of the zoning ordinance amendment dealing with notice of and fees for amendments to the ordinance ought to pass as amended.

TABLED ITEMS

8. Rezoning petition from Brown Avenue residents requesting that their properties located between the lights on Brown Avenue, down to the bridge, be rezoned from residential to commercial.
(Tabled 2/2/00 - Airport working on solutions.)

On motion of Alderman Sysyn, duly seconded by Alderman Pinard, it was voted to remove this item from the table.

Mr. MacKenzie stated I would recommend that this item be received and filed. We are already looking at Brown Avenue as a lookback provision.

On motion of Alderman Pinard, duly seconded by Alderman Sysyn, it was voted to receive and file this item.

9. Ordinance Amendment:

"Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zone to include properties currently zoned I-3 (General Industrial) in the area generally on either side of March Avenue between John E. Devine Drive and Home Depot and generally on either side of John E. Devine Drive from Gold Street to Sam's Club to include the following parcels:
Tax Map 438, Lots 2, 3, 4A, 4B, 5A and 5B."

(Tabled 6/20/00)

This item remained on the table.

Chairman Wihby stated Atty. Fradette has asked to speak for two seconds.

Atty. Fradette stated the letter I submitted with respect to the Auto-torium parcel, if you could add that to the...they met with the staff yesterday. There is no recommendation from staff but if you could add that to the rezoning. Auto-torium is on South Willow Street.

Chairman Wihby asked what number are you talking about.

Atty. Fradette answered it is not in the staff's recommendation package. They just came in yesterday and today I put the letter into your B2R Committee requesting that they be included in the zoning ordinance amendment. Actually, a lookback would be an acceptable alternative. They are looking to get a B-2. They are presently residential and business zoned. It is a split-zoned parcel of land. They want the entire parcel to be business.

Chairman Wihby asked Bob MacKenzie to look at that and if it is okay bring it forward to the Board meeting. If not, we will make it a lookback.

Mr. MacKenzie answered we will review this. I am not familiar with this, but I believe our staff is.

Chairman Wihby stated if it is something that you are going to recommend, we might as well just pass it at the next meeting. If not, then we will have it as a lookback.

Atty. Fradette stated I just wanted to make sure that we will be on the agenda for the next meeting, the full BMA meeting.

Chairman Wihby stated if we don't take it up and vote on it.

Atty. Fradette replied if you don't tonight. If we could get a lookback recommendation and work with the staff in the next week that would be great.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted to send the correspondence from Attorney Fradette regarding Auto-torium to the full Board meeting on February 6 for a recommendation from the Planning Director at that time.

Alderman Cashin asked, Atty. Fradette, what are you referring to, 466 South Willow Street and 560 South Willow Street. Are those the two you are talking about?

Atty. Fradette answered I have two separate clients. Right now I am talking about 466 South Willow Street and Auto-torium.

Chairman Wihby stated so what we are doing is the Planning will make a recommendation at the full Board meeting as to whether or not it is a go. If it a go, it will pass with the rest of the zoning ordinance. If it doesn't, then the recommendation will be a lookback or no.

Alderman Gatsas asked half of it is already zoned B-2. Is it split this way or parallel to the parking?

Mr. MacKenzie answered as I remember, it is split...there is a street that is not parallel to South Willow I think it is Parkview and it is perpendicular to Parkview. I do remember that there has perhaps been a long ZBA history to this particular site.

Alderman Gatsas asked how is it divided. Is it divided perpendicular to Lincoln Street or is it parallel?

Ms. Goucher stated I just want to clarify a couple of things. The property that Atty. Fradette is talking about where Auto-torium is is a split zone. The part that is closest to South Willow and Lincoln is the business zone. There is also a portion that is residential. There have been some issues with residents on the other side so they are looking to extend it. The house that you are talking about with Guillmette is the one that has partially been converted to a beauty salon, which is one of the items in your package. That is a 60% residential and 40% salon and we referred

that to the lookback provision. Just to let you know, it is all at the same corner, that intersection, but currently the areas we are talking about do still have the residential zone and they are both basically asking to extend so we have some of the same issues that we have further on down on the other property and that is why it has been a little difficult to just make that adjustment. I did just meet with Atty. Fradette's client on Friday afternoon, which is why we didn't have any time to prepare and I suggested that they put a letter together for you.

There being no further business, on motion of Alderman Pinard, duly seconded by Alderman Clancy, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee